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F5 NETWORKS, INC., NGINX, INC. (BVI),
and NGINX SOFTWARE, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LYNWOOD INVESTMENTS CY LIMITED,

Plaintiff,

v.

MAXIM KONOVALOV, IGOR SYSOEV,
ANDREY ALEXEEV, MAXIM DOUNIN, GLEB
SMIRNOFF, ANGUS ROBERTSON, NGINX,
INC. (BVI), NGINX SOFTWARE, INC., NGINX,
INC. (DE), BV NGINX, LLC, RUNA CAPITAL,
INC., EVENTURE CAPITAL PARTNERS II
LLC, and F5 NETWORKS, INC.,

Defendants.

Case No. 5:20-CV-03778-MMC

**DEFENDANTS F5 NETWORKS,
INC., NGINX, INC. (BVI), AND
NGINX SOFTWARE, INC.'S
ANSWER TO PLAINTIFF'S
SECOND AMENDED
COMPLAINT**

Defendants F5 Networks, Inc., NGINX, Inc. (BVI), and NGINX Software, Inc. (collectively, “F5 Defendants”) answer the Second Amended Complaint as follows:

“INTRODUCTION”¹

1. F5 Defendants deny the allegations in Paragraph 1.

2. F5 Defendants admit and aver that Igor Sysoev was involved in the creation of open source NGINX, which was made available to the public for free under a non-restrictive, open source license. F5 Defendants deny the remaining allegations in Paragraph 2.

3. F5 Defendants deny the allegations in Paragraph 3.

4. F5 Defendants deny the allegations in Paragraph 4.

5. F5 Defendants deny the allegations in Paragraph 5.

6. F5 Defendants deny the allegations in Paragraph 6.

7. F5 Defendants deny the allegations in Paragraph 7.

8. F5 Defendants admit and aver that F5 acquired NGINX, Inc. in an arm’s-length transaction, the terms of which were disclosed in F5’s public filings. Except as expressly admitted and averred, F5 Defendants deny any remaining allegations in Paragraph 8.

9. F5 Defendants deny the allegations in Paragraph 9.

10. F5 Defendants deny the allegations in Paragraph 10.

11. F5 Defendants lack knowledge or information sufficient to form a belief as to Rambler or Lynwood’s alleged awareness (or lack of awareness), or of any alleged statements by Alexander Korotkov to Rambler or Lynwood, and deny these allegations on that basis.

F5 Defendants deny the remaining allegations in Paragraph 11.

12. F5 Defendants lack knowledge or information sufficient to form a belief as to Rambler or Lynwood’s supposed investigation, and deny these allegations on that basis.

F5 Defendants deny the remaining allegations in Paragraph 12.

13. F5 Defendants deny the allegations in Paragraph 13.

14. F5 Defendants deny the allegations in Paragraph 14.

¹ F5 Defendants do not accept the accuracy or admit the contents of the headings and subheadings in the Second Amended Complaint, which are reproduced herein solely for convenience.

“THE PARTIES”

15. F5 Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 15, and on that basis deny these allegations.

16. F5 Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 16, and on that basis deny these allegations.

17. Admitted.

18. F5 Defendants admit that Sysoev is a citizen of the Russian Federation. Except as expressly admitted, F5 Defendants deny the allegations in Paragraph 18.

19. Admitted.

20. Admitted.

21. Admitted.

22. F5 Defendants admit and aver that NGINX, Inc. (BVI) was incorporated on July 6, 2011, in the British Virgin Islands and is a wholly owned subsidiary of F5 Networks, Inc. Except as expressly admitted, F5 Defendants deny the allegations in Paragraph 22.

23. F5 Defendants admit and aver that NGINX Software, Inc. was incorporated on May 4, 2011, in Delaware. F5 Defendants admit and aver that NGINX Software, Inc. is registered to do business in the state of California as of May 23, 2011, and appointed CT Corporation System as its agent for service of process in California. F5 Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 23, and on that basis deny these allegations.

24. F5 Defendants admit and aver that NGINX DE was incorporated on August 8, 2011, in Delaware. F5 Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 24, and on that basis deny these allegations.

25. Admitted.

26. F5 Defendants admit and aver that F5 Inc. is a Washington corporation headquartered at 801 5th Avenue, Seattle, Washington 98104, and that F5 Inc. is a publicly traded company listed on the NASDAQ exchange under the symbol FFIV. F5 Defendants further admit and aver that F5 Inc. is registered to do business in the state of California and has appointed

1 CT Corporation System as its agent for service of process in California. Except as expressly
2 admitted, F5 Defendants deny the allegations in Paragraph 26.

3 **“JURISDICTION AND VENUE”**

4 27. F5 Defendants admit that the complaint purports to allege claims under 17 U.S.C.
5 § 1, et seq., in connection with the Berne Convention for the Protection of Literary and Artistic
6 Works. F5 Defendants deny that Plaintiff is properly bringing this action and deny that Plaintiff
7 is entitled to any relief whatsoever. Except as expressly admitted, F5 Defendants deny the
8 allegations in Paragraph 27.

9 28. Solely for the purposes of this matter, F5 Defendants do not contest that personal
10 jurisdiction exists over F5 Defendants. F5 Defendants lack knowledge or information sufficient
11 to form a belief as to the truth of the remaining allegations in Paragraph 28, and on that basis
12 deny these allegations.

13 29. F5 Defendants admit the averments in Paragraph 29.

14 30. F5 Defendants lack knowledge or information sufficient to form a belief as to the
15 truth of the allegations in Paragraph 30, and on that basis deny these allegations.

16 31. F5 Defendants admit and aver that BV NGNIX is registered to do business in
17 California and has appointed an agent for service of process. Except as expressly admitted and
18 averred, F5 Defendants deny any remaining allegations in Paragraph 31.

19 32. Solely for the purposes of this matter, F5 Defendants do not contest that venue is
20 proper in this district.

21 **“FACTUAL BACKGROUND”**

22 33. F5 Defendants lack knowledge or information sufficient to form a belief as to the
23 truth of the allegations in Paragraph 33, and on that basis deny these allegations.

24 34. F5 Defendants lack knowledge or information sufficient to form a belief as to the
25 truth of the allegations in Paragraph 34, and on that basis deny these allegations.

26 35. F5 Defendants lack knowledge or information sufficient to form a belief as to the
27 truth of the allegations in Paragraph 35, and on that basis deny these allegations.

28 36. F5 Defendants admit and aver that defendants Sysoev, Konovalov, Smirnoff, and

1 Dounin formerly worked at Rambler. Except as expressly admitted, F5 Defendants deny the
2 allegations in Paragraph 36.

3 **Allegations re: “Defendant Konovalov’s Employment with Rambler”**

4 37. F5 Defendants admit that Konovalov was employed by Rambler from
5 approximately 2008 until April 29, 2011. Except as expressly admitted, F5 Defendants deny the
6 allegations in Paragraph 37.

7 38. F5 Defendants admit that Konovalov was appointed CTO of Rambler in or about
8 2008. F5 Defendants lack knowledge or information sufficient to form a belief as to the truth of
9 the remaining allegations in Paragraph 38, and on that basis deny these allegations.

10 39. F5 Defendants lack knowledge or information sufficient to form a belief as to the
11 truth of the allegations in Paragraph 39, and on that basis deny these allegations.

12 40. F5 Defendants lack knowledge or information sufficient to form a belief as to the
13 truth of the allegations in Paragraph 40, and on that basis deny these allegations.

14 41. F5 Defendants lack knowledge or information sufficient to form a belief as to the
15 truth of the allegations in Paragraph 41, and on that basis deny these allegations.

16 42. F5 Defendants lack knowledge or information sufficient to form a belief as to the
17 truth of the allegations in Paragraph 42, and on that basis deny these allegations.

18 43. F5 Defendants lack knowledge or information sufficient to form a belief as to the
19 truth of the allegations in Paragraph 43, and on that basis deny these allegations.

20 44. F5 Defendants lack knowledge or information sufficient to form a belief as to the
21 truth of the allegations in Paragraph 44, and on that basis deny these allegations.

22 45. F5 Defendants lack knowledge or information sufficient to form a belief as to the
23 truth of the allegations in Paragraph 45, and on that basis deny these allegations.

24 46. F5 Defendants lack knowledge or information sufficient to form a belief as to the
25 truth of the allegations in Paragraph 46, and on that basis deny these allegations.

26 47. F5 Defendants lack knowledge or information sufficient to form a belief as to the
27 truth of the allegations in Paragraph 47, and on that basis deny these allegations.

28 48. F5 Defendants lack knowledge or information sufficient to form a belief as to the

1 truth of the allegations in Paragraph 48, and on that basis deny these allegations.

2 49. F5 Defendants lack knowledge or information sufficient to form a belief as to the
3 truth of the allegations in Paragraph 49, and on that basis deny these allegations.

4 50. F5 Defendants lack knowledge or information sufficient to form a belief as to the
5 truth of the allegations in Paragraph 50, and on that basis deny these allegations.

6 **Allegations re: “Defendant Sysoev’s Employment with Rambler”**

7 51. F5 Defendants admit and aver that Sysoev was formerly employed by Rambler,
8 that he was a central figure in the development of open-source NGINX, and that his employment
9 by Rambler ended in or about November 2011. Except as expressly admitted, F5 Defendants
10 deny the allegations in Paragraph 51.

11 52. F5 Defendants lack knowledge or information sufficient to form a belief as to the
12 truth of the allegations in Paragraph 52, and on that basis deny these allegations.

13 53. F5 Defendants lack knowledge or information sufficient to form a belief as to the
14 truth of the allegations in Paragraph 53, and on that basis deny these allegations.

15 54. F5 Defendants lack knowledge or information sufficient to form a belief as to the
16 truth of the allegations in Paragraph 54, and on that basis deny these allegations.

17 55. F5 Defendants lack knowledge or information sufficient to form a belief as to the
18 truth of the allegations in Paragraph 55, and on that basis deny these allegations.

19 56. F5 Defendants lack knowledge or information sufficient to form a belief as to the
20 truth of the allegations in Paragraph 56, and on that basis deny these allegations.

21 57. F5 Defendants lack knowledge or information sufficient to form a belief as to the
22 truth of the allegations in Paragraph 57, and on that basis deny these allegations.

23 58. F5 Defendants lack knowledge or information sufficient to form a belief as to the
24 truth of the allegations in Paragraph 58, and on that basis deny these allegations.

25 59. F5 Defendants lack knowledge or information sufficient to form a belief as to the
26 truth of the allegations in Paragraph 59, and on that basis deny these allegations.

27 60. F5 Defendants deny the allegations in Paragraph 60.

28 61. F5 Defendants admit and aver that Sysoev separated from Rambler’s employment

1 in or about May 2011. Except as expressly admitted, F5 Defendants deny the allegations in
2 Paragraph 61.

3 62. F5 Defendants lack knowledge or information sufficient to form a belief as to the
4 truth of the allegations in Paragraph 62, and on that basis deny these allegations.

5 63. F5 Defendants admit and aver that Sysoev separated from Rambler entirely on or
6 about December 1, 2011. Express as expressly admitted, F5 Defendants deny the allegations in
7 Paragraph 63.

8 64. F5 Defendants lack knowledge or information sufficient to form a belief as to the
9 truth of the allegations in Paragraph 64, and on that basis deny these allegations.

10 65. F5 Defendants lack knowledge or information sufficient to form a belief as to the
11 truth of the allegations in Paragraph 65, and on that basis deny these allegations.

12 66. F5 Defendants lack knowledge or information sufficient to form a belief as to the
13 truth of the allegations in Paragraph 66, and on that basis deny these allegations.

14 67. F5 Defendants lack knowledge or information sufficient to form a belief as to the
15 truth of the allegations in Paragraph 67, and on that basis deny these allegations.

16 68. F5 Defendants lack knowledge or information sufficient to form a belief as to the
17 truth of the allegations in Paragraph 68, and on that basis deny these allegations.

18 69. F5 Defendants lack knowledge or information sufficient to form a belief as to the
19 truth of the allegations in Paragraph 69, and on that basis deny these allegations.

20 70. F5 Defendants lack knowledge or information sufficient to form a belief as to the
21 truth of the allegations in Paragraph 70, and on that basis deny these allegations.

22 71. F5 Defendants lack knowledge or information sufficient to form a belief as to the
23 truth of the allegations in Paragraph 71, and on that basis deny these allegations.

24 72. F5 Defendants lack knowledge or information sufficient to form a belief as to the
25 truth of the allegations in Paragraph 72, and on that basis deny these allegations.

26 73. F5 Defendants lack knowledge or information sufficient to form a belief as to the
27 truth of the allegations in Paragraph 73, and on that basis deny these allegations.

28 74. F5 Defendants lack knowledge or information sufficient to form a belief as to the

1 truth of the allegations in Paragraph 74, and on that basis deny these allegations.

2 75. F5 Defendants lack knowledge or information sufficient to form a belief as to the
3 truth of the allegations in Paragraph 75, and on that basis deny these allegations.

4 76. F5 Defendants lack knowledge or information sufficient to form a belief as to the
5 truth of the allegations in Paragraph 76, and on that basis deny these allegations.

6 77. F5 Defendants lack knowledge or information sufficient to form a belief as to the
7 truth of the allegations in Paragraph 77, and on that basis deny these allegations.

8 78. F5 Defendants lack knowledge or information sufficient to form a belief as to the
9 truth of the allegations in Paragraph 78, and on that basis deny these allegations.

10 79. F5 Defendants lack knowledge or information sufficient to form a belief as to the
11 truth of the allegations in Paragraph 79, and on that basis deny these allegations.

12 80. F5 Defendants lack knowledge or information sufficient to form a belief as to the
13 truth of the allegations in Paragraph 80, and on that basis deny these allegations.

14 81. F5 Defendants lack knowledge or information sufficient to form a belief as to the
15 truth of the allegations in Paragraph 81, and on that basis deny these allegations.

16 82. F5 Defendants lack knowledge or information sufficient to form a belief as to the
17 truth of the allegations in Paragraph 82, and on that basis deny these allegations.

18 83. F5 Defendants lack knowledge or information sufficient to form a belief as to the
19 truth of the allegations in Paragraph 83, and on that basis deny these allegations.

20 84. F5 Defendants admit and aver that Sysoev's full-time employment with Rambler
21 ended in or about May 2011. F5 Defendants lack knowledge or information sufficient to form a
22 belief as to the remaining allegations in Paragraph 84, and deny these allegations on that basis.

23 85. F5 Defendants lack knowledge or information sufficient to form a belief as to the
24 truth of the allegations in Paragraph 85, and on that basis deny these allegations.

25 86. F5 Defendants admit the averments in Paragraph 86.

26 87. F5 Defendants lack knowledge or information sufficient to form a belief as to the
27 truth of the allegations in Paragraph 87, and on that basis deny these allegations.

28 88. F5 Defendants lack knowledge or information sufficient to form a belief as to the

1 truth of the allegations in Paragraph 88, and on that basis deny these allegations.

2 89. F5 Defendants lack knowledge or information sufficient to form a belief as to the
3 truth of the allegations in Paragraph 89, and on that basis deny these allegations.

4 90. F5 Defendants lack knowledge or information sufficient to form a belief as to the
5 truth of the allegations in Paragraph 90, and on that basis deny these allegations.

6 91. F5 Defendants admit and aver that Sysoev separated from Rambler entirely on or
7 before December 1, 2011. Except as expressly admitted, F5 Defendants deny the allegations in
8 Paragraph 91.

9 92. F5 Defendants lack knowledge or information sufficient to form a belief as to the
10 truth of the allegations in Paragraph 92, and on that basis deny these allegations.

11 93. F5 Defendants admit and aver that Sysoev separated from Rambler entirely on or
12 before December 1, 2011. Except as expressly admitted, F5 Defendants deny the allegations in
13 Paragraph 93.

14 94. F5 Defendants lack knowledge or information sufficient to form a belief as to the
15 truth of the allegations in Paragraph 94, and on that basis deny these allegations.

16 **Allegations re: “Defendant Smirnoff’s Employment with Rambler”**

17 95. F5 Defendants admit and aver that Smirnoff was employed at Rambler from
18 September 2006 until on or about November 12, 2012. Except as expressly admitted, F5
19 Defendants deny the allegations in Paragraph 95.

20 96. F5 Defendants lack knowledge or information sufficient to form a belief as to the
21 truth of the allegations in Paragraph 96, and on that basis deny these allegations.

22 97. F5 Defendants lack knowledge or information sufficient to form a belief as to the
23 truth of the allegations in Paragraph 97, and on that basis deny these allegations.

24 98. F5 Defendants lack knowledge or information sufficient to form a belief as to the
25 truth of the allegations in Paragraph 98, and on that basis deny these allegations.

26 99. F5 Defendants lack knowledge or information sufficient to form a belief as to the
27 truth of the allegations in Paragraph 99, and on that basis deny these allegations.
28

Allegations re: “Rambler’s Internal Labor Rules and Regulations”

100. F5 Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 100, and on that basis deny these allegations.

101. F5 Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 101, and on that basis deny these allegations.

102. F5 Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 102, and on that basis deny these allegations.

103. F5 Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 103, and on that basis deny these allegations.

104. F5 Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 104, and on that basis deny these allegations.

105. F5 Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 105, and on that basis deny these allegations.

106. F5 Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 106, and on that basis deny these allegations.

Allegations re: “The Development of NGINX Software”

107. F5 Defendants deny the allegations in Paragraph 107.

108. F5 Defendants deny the allegations in Paragraph 108.

109. F5 Defendants deny the allegations in Paragraph 109.

110. F5 Defendants admit and aver that Sysoev is widely credited with developing open source NGINX software, including writing the first lines of code for open source NGINX. Except as expressly admitted, F5 Defendants deny the allegations in Paragraph 110.

111. F5 Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 111, and on that basis deny these allegations.

112. F5 Defendants admit and aver that public sources state that the open source Apache HTTP software was launched in 1995. Except as expressly admitted, F5 Defendants deny the allegations in Paragraph 112.

113. F5 Defendants admit and aver that web servers are an integral part of the Internet

1 that help facilitate website navigation, among other functions. Except as expressly admitted, F5
2 Defendants deny the allegations in Paragraph 113.

3 114. F5 Defendants admit and aver that web pages are typically coded in HTML,
4 among other programming languages, and that the Internet typically functions to allow users to
5 request content from a given web address, utilizing domain name servers and an Internet provider
6 (“IP”) system. F5 Defendants further admit and aver that a hosting computer typically “serves” a
7 requested web page to a user utilizing a “server” program. Except as expressly admitted, F5
8 Defendants deny the allegations in Paragraph 114.

9 115. F5 Defendants lack knowledge or information sufficient to form a belief as to the
10 truth of the allegations in Paragraph 115, and on that basis deny these allegations.

11 116. F5 Defendants admit and aver that open source NGINX has been used to handle
12 requests for web pages or HTML documents and to facilitate “serving” them to users, among
13 other functions. F5 Defendants lack knowledge or information sufficient to form a belief as to the
14 remaining allegations in Paragraph 116, and deny these allegations on that basis.

15 117. F5 Defendants admit and aver that open source NGINX is available to the public
16 under a BSD-style license and that F5 offers commercial product for license. Except as expressly
17 admitted, F5 Defendants deny the allegations in Paragraph 117.

18 118. F5 Defendants admit and aver that companies use web server software to enable
19 efficient access to their websites. Except as expressly admitted, F5 Defendants deny the
20 allegations in Paragraph 118.

21 119. F5 Defendants lack knowledge or information sufficient to form a belief as to the
22 truth of the allegations in Paragraph 119, and on that basis deny these allegations.

23 120. F5 Defendants admit and aver that open source NGINX was publicly released on
24 the Internet by Sysoev in 2004. Except as expressly admitted, F5 Defendants deny the allegations
25 in Paragraph 120.

26 121. F5 Defendants deny the allegations in Paragraph 121.

27 122. F5 Defendants admit and aver that open source NGINX has been used as a load
28 balancer or reverse proxy together with an Apache web server, and that open source NGINX has

1 been used in lieu of Apache. F5 Defendants lack knowledge or information sufficient to form a
2 belief as to the truth of the remaining allegations in Paragraph 122 and deny these allegations on
3 that basis.

4 123. F5 Defendants deny the allegations in Paragraph 123.

5 124. F5 Defendants admit and aver that open source NGINX is available to the public
6 under a BSD-style license and that F5 offers commercial products, including NGINX Plus, for
7 license. Except as expressly admitted, F5 Defendants deny the allegations in Paragraph 124.

8 125. F5 Defendants admit and aver that many persons and companies have used open
9 source NGINX in connection with a wide range of applications. Except as expressly admitted, F5
10 Defendants deny the allegations in Paragraph 125.

11 126. F5 Defendants admit and aver that Sysoev worked on developing open source
12 NGINX after 2004. F5 Defendants deny the remaining allegations in Paragraph 126.

13 127. F5 Defendants deny the allegations in Paragraph 127.

14 128. F5 Defendants deny the allegations in Paragraph 128.

15 129. F5 Defendants admit and aver that following the release of open source NGINX,
16 the open source community embraced it, making open source NGINX widely used web server
17 software. Except as expressly admitted, F5 Defendants deny the allegations in Paragraph 129.

18 130. F5 Defendants admit and aver that widespread adoption of the smart phone led to a
19 massive growth in mobile Internet users, which at some point (or points) implicated a problem of
20 optimizing network sockets to handle large numbers of clients simultaneously. F5 Defendants
21 further admit and aver that open source NGINX helped programmers and system administrators
22 solve problems associated with handling a large number of clients simultaneously. Except as
23 expressly admitted, F5 Defendants deny the allegations in Paragraph 130.

24 131. F5 Defendants lack knowledge or information sufficient to form a belief as to the
25 truth of the allegations in Paragraph 131, and on that basis deny these allegations.

26 132. F5 Defendants admit and aver that Sysoev has stated publicly that he authored the
27 majority of open source NGINX code as of 2011. F5 Defendants lack knowledge or information
28 sufficient to form a belief as to the truth of the remaining allegations in Paragraph 132, and deny

1 these allegations on that basis.

2 133. F5 Defendants admit and aver that the term “commit” may refer to a software
3 developer saving software code in a designated code repository. Except as expressly admitted, F5
4 Defendants deny the allegations in Paragraph 133.

5 134. F5 Defendants lack knowledge or information sufficient to form a belief as to the
6 truth of the allegations in Paragraph 134, and on that basis deny these allegations.

7 135. F5 Defendants deny the allegations in Paragraph 135.

8 136. F5 Defendants lack knowledge or information sufficient to form a belief as to the
9 truth of the allegations in Paragraph 136, and on that basis deny these allegations.

10 137. F5 Defendants deny the allegations in Paragraph 137.

11 138. F5 Defendants deny the allegations in Paragraph 138.

12 139. F5 Defendants deny the allegations in Paragraph 139.

13 140. F5 Defendants lack knowledge or information sufficient to form a belief as to the
14 truth of the allegations in Paragraph 140, and on that basis deny these allegations.

15 141. To the extent the complaint relies upon third-party publications and news articles,
16 the articles speak for themselves and are not statements by the F5 Defendants. F5 Defendants
17 deny the allegations in Paragraph 141.

18 142. F5 Defendants deny the allegations in Paragraph 142.

19 143. F5 Defendants lack knowledge or information sufficient to form a belief as to the
20 truth of the allegations in Paragraph 143, and on that basis deny these allegations.

21 144. F5 Defendants deny the allegations in Paragraph 144.

22 145. F5 Defendants lack knowledge or information sufficient to form a belief as to the
23 truth of the allegations in Paragraph 145, and on that basis deny these allegations.

24 146. F5 Defendants deny the allegations in Paragraph 146.

25 147. F5 Defendants deny the allegations in Paragraph 147.

26 148. F5 Defendants lack knowledge or information sufficient to form a belief as to the
27 truth of the allegations in Paragraph 148, and on that basis deny these allegations.

28 149. F5 Defendants deny the allegations in Paragraph 149.

1 150. F5 Defendants deny the allegations in Paragraph 150.

2 **Allegations re: “The Team Agrees to Conspire to Steal the NGINX Enterprise, Including**
3 **Pre-Exit NGINX Plus, from Rambler and to Sell it to a Third Party for Their Own**
4 **Ill-Gotten Profit”**

5 151. F5 Defendants deny the allegations in Paragraph 151.

6 152. F5 Defendants deny the allegations in Paragraph 152.

7 153. F5 Defendants deny the allegations in Paragraph 153.

8 154. F5 Defendants deny the allegations in Paragraph 154.

9 155. F5 Defendants deny the allegations in Paragraph 155.

10 156. F5 Defendants lack knowledge or information sufficient to form a belief as to the
11 truth of the allegations in Paragraph 156, and on that basis deny these allegations.

12 157. F5 Defendants lack knowledge or information sufficient to form a belief as to the
13 truth of the allegations in Paragraph 157, and on that basis deny these allegations.

14 158. F5 Defendants lack knowledge or information sufficient to form a belief as to the
15 truth of the allegations in Paragraph 158, and on that basis deny these allegations.

16 159. F5 Defendants deny the allegations in Paragraph 159.

17 160. F5 Defendants deny the allegations in Paragraph 160.

18 161. F5 Defendants deny the allegations in Paragraph 161.

19 162. F5 Defendants deny the allegations in Paragraph 162.

20 163. F5 Defendants deny the allegations in Paragraph 163.

21 164. F5 Defendants deny the allegations in Paragraph 164.

22 165. F5 Defendants deny the allegations in Paragraph 165.

23 166. F5 Defendants deny the allegations in Paragraph 166.

24 167. F5 Defendants deny the allegations in Paragraph 167.

25 168. F5 Defendants deny the allegations in Paragraph 168.

26 169. F5 Defendants deny the allegations in Paragraph 169.

27 170. F5 Defendants deny the allegations in Paragraph 170.

28 171. F5 Defendants deny the allegations in Paragraph 171.

172. F5 Defendants deny the allegations in Paragraph 172.

173. F5 Defendants deny the allegations in Paragraph 173.

174. F5 Defendants deny the allegations in Paragraph 174.

175. F5 Defendants deny the allegations in Paragraph 175.

176. F5 Defendants deny the allegations in Paragraph 176.

177. F5 Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 177, and on that basis deny these allegations.

178. F5 Defendants deny the allegations in Paragraph 178.

179. F5 Defendants deny the allegations in Paragraph 179.

180. F5 Defendants deny the allegations in Paragraph 180.

181. F5 Defendants deny the allegations in Paragraph 181.

Allegations re: “The Team Launches the NGINX Enterprise, Including Pre-Exit NGINX Plus”

182. F5 Defendants deny the allegations in Paragraph 182.

183. F5 Defendants admit and aver that Sysoev separated from Rambler entirely on or before December 1, 2011, and that Smirnov separated from Rambler on or before November 12, 2012. Except as expressly admitted, F5 Defendants deny the allegations in Paragraph 183.

184. F5 Defendants deny the allegations in Paragraph 184.

185. F5 Defendants deny the allegations in Paragraph 185.

186. F5 Defendants deny the allegations in Paragraph 186.

187. F5 Defendants deny the allegations in Paragraph 187.

188. To the extent this paragraph purports to quote selectively from a video purportedly of Gleb Alexandrovich Smirnov, F5 Defendants refer Lynwood to the video, available at https://www.youtube.com/watch?v=KP_bKvXkoC4, for a complete statement of its contents.

F5 Defendants deny the allegations in Paragraph 188 to the extent that they are inconsistent with the cited video. F5 Defendants deny all remaining allegations in Paragraph 188.

189. F5 Defendants deny the allegations in Paragraph 189.

190. F5 Defendants deny the allegations in Paragraph 190.

1 191. F5 Defendants lack knowledge or information sufficient to form a belief as to the
2 truth of the allegations in Paragraph 191, and on that basis deny these allegations.

3 192. F5 Defendants lack knowledge or information sufficient to form a belief as to the
4 truth of the allegations in Paragraph 192, and on that basis deny these allegations.

5 193. F5 Defendants deny the allegations in Paragraph 193.

6 194. F5 Defendants lack knowledge or information sufficient to form a belief as to the
7 truth of the allegations in Paragraph 194, and on that basis deny these allegations.

8 195. F5 Defendants lack knowledge or information sufficient to form a belief as to the
9 truth of the allegations in Paragraph 195, and on that basis deny these allegations.

10 196. F5 Defendants deny the allegations in Paragraph 196.

11 197. To the extent this paragraph purports to quote selectively from the slide deck
12 attached to the complaint as Exhibit D, the document speaks for itself, and F5 Defendants refer
13 Lynwood to the document for a statement of its contents. F5 Defendants deny the allegations in
14 Paragraph 197.

15 198. F5 Defendants deny the allegations in Paragraph 198.

16 199. To the extent this paragraph purports to quote selectively from the slide deck
17 attached to the complaint as Exhibit D, the document speaks for itself, and F5 Defendants refer
18 Lynwood to the document for a statement of its contents. F5 Defendants deny the allegations in
19 Paragraph 199.

20 200. F5 Defendants admit that Paragraph 200 of the complaint appears to include a
21 screenshot of the website nginxplus.com. F5 Defendants admit and aver that public sources state
22 that the domain name “NGINXPLUS.COM” was registered on February 20, 2010.
23 F5 Defendants deny the remaining allegations in Paragraph 200.

24 201. F5 Defendants deny the allegations in Paragraph 201.

25 202. F5 Defendants lack knowledge or information sufficient to form a belief as to the
26 truth of the allegations in Paragraph 202, and on that basis deny these allegations.

27 203. F5 Defendants deny the allegations in Paragraph 203.

28 204. F5 Defendants deny the allegations in Paragraph 204.

1 205. F5 Defendants deny the allegations in Paragraph 205.

2 206. F5 Defendants admit that Paragraph 206 appears to include a reference to partial
3 quotations from a webpage including “NGINX Docs, Releases: NGINX Plus Initial Release
4 (R1),” available at <https://docs.nginx.com/nginx/releases/#nginxplus-initial-release-r1>. Except as
5 expressly admitted, F5 Defendants deny the allegations in Paragraph 206.

6 207. F5 Defendants deny the allegations in Paragraph 207.

7 208. F5 Defendants deny the allegations in Paragraph 208.

8 209. To the extent this paragraph purports to quote selectively from the transcript of a
9 video purportedly including Maxim Konovalov, F5 Defendants refer Lynwood to the video,
10 available at <https://www.youtube.com/watch?v=X6SXe1SPu-8>, for a complete statement of its
11 contents. F5 Defendants deny the allegations in Paragraph 209 to the extent that they are
12 inconsistent with the cited video. F5 Defendants deny all remaining allegations in Paragraph 209.

13 210. To the extent this paragraph purports to quote selectively from the transcript of a
14 video purportedly including Maxim Konovalov, F5 Defendants refer Lynwood to the video,
15 available at <https://www.youtube.com/watch?v=X6SXe1SPu-8>, for a complete statement of its
16 contents. F5 Defendants deny the allegations in Paragraph 210 to the extent that they are
17 inconsistent with the cited video. F5 Defendants deny all remaining allegations in Paragraph 210.

18 211. To the extent the complaint relies upon third-party publications and news articles,
19 the articles speak for themselves and are not statements made by F5 Defendants. F5 Defendants
20 deny the allegations in Paragraph 211.

21 212. F5 Defendants lack knowledge or information sufficient to form a belief as to the
22 truth of the allegations in Paragraph 212, and on that basis deny these allegations.

23 213. To the extent this paragraph purports to quote selectively from the a blog entry
24 “Celebrating 20 Years of NGINX,” F5 Defendants refer Lynwood to the blog, available at
25 <https://blog.nginx.org/blog/celebrating-20-years-of-nginx>, for a complete statement of its
26 contents. F5 Defendants deny the allegations in Paragraph 213 to the extent that they are
27 inconsistent with the cited blog. F5 Defendants deny all remaining allegations in Paragraph 213.

28 214. F5 Defendants deny the allegations in Paragraph 214.

1 215. To the extent this paragraph purports to quote selectively from the slide deck
2 attached to the complaint as Exhibit D, the document speaks for itself, and F5 Defendants refer
3 Lynwood to the document for a statement of its contents. F5 Defendants deny the allegations in
4 Paragraph 215.

5 216. F5 Defendants deny the allegations in Paragraph 216.

6 217. F5 Defendants deny the allegations in Paragraph 217.

7 218. To the extent this paragraph purports to quote selectively from the slide deck
8 attached to the complaint as Exhibit D, the document speaks for itself, and F5 Defendants refer
9 Lynwood to the document for a statement of its contents. F5 Defendants deny the allegations in
10 Paragraph 218.

11 219. To the extent this paragraph purports to quote selectively from the slide deck
12 attached to the complaint as Exhibit D, the document speaks for itself, and F5 Defendants refer
13 Lynwood to the document for a statement of its contents. F5 Defendants deny the allegations in
14 Paragraph 219.

15 220. F5 Defendants deny the allegations in Paragraph 220.

16 221. To the extent this paragraph purports to quote selectively from a video purportedly
17 including Gleb Alexandrovich Smirnoff, F5 Defendants refer Lynwood to the video, available at
18 https://www.youtube.com/watch?v=KP_bKvXkoC4, for a complete statement of its contents. F5
19 Defendants deny the allegations in Paragraph 221 to the extent that they are inconsistent with the
20 cited video. F5 Defendants deny all remaining allegations in Paragraph 221.

21 222. To the extent this paragraph purports to quote selectively from a video purportedly
22 including Gleb Alexandrovich Smirnoff, F5 Defendants refer Lynwood to the video, available at
23 https://www.youtube.com/watch?v=KP_bKvXkoC4, for a complete statement of its contents. F5
24 Defendants deny the allegations in Paragraph 222 to the extent that they are inconsistent with the
25 cited video. F5 Defendants deny all remaining allegations in Paragraph 222.

26 223. F5 Defendants deny the allegations in Paragraph 223.

27 224. To the extent this paragraph purports to quote selectively from a video purportedly
28 including Gleb Alexandrovich Smirnoff, F5 Defendants refer Lynwood to the video, available at

1 https://www.youtube.com/watch?v=KP_bKvXkoC4, for a complete statement of its contents. F5
2 Defendants deny the allegations in Paragraph 224 to the extent that they are inconsistent with the
3 cited video. F5 Defendants deny all remaining allegations in Paragraph 224.

4 225. To the extent this paragraph purports to quote selectively from a video purportedly
5 including Gleb Alexandrovich Smirnoff, F5 Defendants refer Lynwood to the video, available at
6 https://www.youtube.com/watch?v=KP_bKvXkoC4, for a complete statement of its contents. F5
7 Defendants deny the allegations in Paragraph 225 to the extent that they are inconsistent with the
8 cited video. F5 Defendants deny all remaining allegations in Paragraph 225.

9 226. To the extent this paragraph purports to quote selectively from a video purportedly
10 including Gleb Alexandrovich Smirnoff, F5 Defendants refer Lynwood to the video, available at
11 https://www.youtube.com/watch?v=KP_bKvXkoC4, for a complete statement of its contents. F5
12 Defendants deny the allegations in Paragraph 226 to the extent that they are inconsistent with the
13 cited video. F5 Defendants deny all remaining allegations in Paragraph 226.

14 227. To the extent this paragraph purports to quote selectively from a video purportedly
15 including Gleb Alexandrovich Smirnoff, F5 Defendants refer Lynwood to the video, available at
16 https://www.youtube.com/watch?v=KP_bKvXkoC4, for a complete statement of its contents. F5
17 Defendants deny the allegations in Paragraph 227 to the extent that they are inconsistent with the
18 cited video. F5 Defendants deny all remaining allegations in Paragraph 227.

19 228. To the extent this paragraph purports to quote selectively from a video purportedly
20 including Gleb Alexandrovich Smirnoff, F5 Defendants refer Lynwood to the video, available at
21 https://www.youtube.com/watch?v=KP_bKvXkoC4, for a complete statement of its contents. F5
22 Defendants deny the allegations in Paragraph 228 to the extent that they are inconsistent with the
23 cited video. F5 Defendants deny all remaining allegations in Paragraph 228.

24 229. F5 Defendants lack knowledge or information sufficient to form a belief as to the
25 truth of the allegations in Paragraph 229, and on that basis deny these allegations.

26 230. To the extent this paragraph purports to quote selectively from the slide deck
27 attached to the complaint as Exhibit B, the document speaks for itself, and F5 Defendants refer
28 Lynwood to the document for a statement of its contents. F5 Defendants deny the allegations in

1 Paragraph 230.

2 231. To the extent this paragraph purports to quote selectively from the slide deck
3 attached to the complaint as Exhibit B, the document speaks for itself, and F5 Defendants refer
4 Lynwood to the document for a statement of its contents. F5 Defendants deny the allegations in
5 Paragraph 231.

6 232. F5 Defendants deny the allegations in Paragraph 232.

7 233. To the extent this paragraph purports to quote selectively from the slide deck
8 attached to the complaint as Exhibit B, the document speaks for itself, and F5 Defendants refer
9 Lynwood to the document for a statement of its contents. F5 Defendants deny the allegations in
10 Paragraph 233.

11 234. To the extent this paragraph purports to quote selectively from the slide deck
12 attached to the complaint as Exhibit B, the document speaks for itself, and F5 Defendants refer
13 Lynwood to the document for a statement of its contents. F5 Defendants deny the allegations in
14 Paragraph 234.

15 235. F5 Defendants deny the allegations in Paragraph 235.

16 236. F5 Defendants deny the allegations in Paragraph 236.

17 237. F5 Defendants deny the allegations in Paragraph 237.

18 238. F5 Defendants deny the allegations in Paragraph 238.

19 239. F5 Defendants deny the allegations in Paragraph 239.

20 240. F5 Defendants lack knowledge or information sufficient to form a belief as to the
21 truth of the allegations in Paragraph 240, and on that basis deny these allegations.

22 241. F5 Defendants deny the allegations in Paragraph 241.

23 242. F5 Defendants deny the allegations in Paragraph 242.

24 243. F5 Defendants deny the allegations in Paragraph 243.

25 244. F5 Defendants deny the allegations in Paragraph 244.

26 245. F5 Defendants deny the allegations in Paragraph 245.

27 246. F5 Defendants deny the allegations in Paragraph 246.

28 247. F5 Defendants deny the allegations in Paragraph 247.

Allegations re: “The Team Ejects Korotkov From The Conspiracy; Konovalov and Alexeev Take Over The Team’s Fundraising and Business Development Efforts”

248. F5 Defendants deny the allegations in Paragraph 248.

249. F5 Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 249, and on that basis deny these allegations.

250. F5 Defendants deny the allegations in Paragraph 250.

251. F5 Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 251, and on that basis deny these allegations.

252. F5 Defendants deny the allegations in Paragraph 252.

253. To the extent this paragraph purports to reference language from the slide deck attached to the complaint as Exhibit B, the document speaks for itself, and F5 Defendants refer Lynwood to the document for a statement of its contents. F5 Defendants deny the allegations in Paragraph 253.

254. To the extent this paragraph purports to reference language from the slide deck attached to the complaint as Exhibit B, the document speaks for itself, and F5 Defendants refer Lynwood to that the document for a statement of its contents. F5 Defendants deny the allegations in Paragraph 254.

255. To the extent this paragraph purports to quote selectively from the slide deck attached to the complaint as Exhibit B, the document speaks for itself, and F5 Defendants refer Lynwood to the document for a statement of its contents. F5 Defendants deny the allegations in Paragraph 255.

256. F5 Defendants deny the allegations in Paragraph 256.

257. F5 Defendants deny the allegations in Paragraph 257.

258. F5 Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 258, and on that basis deny these allegations.

259. F5 Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 259, and on that basis deny these allegations.

260. F5 Defendants lack knowledge or information sufficient to form a belief as to the

1 truth of the allegations in Paragraph 260, and on that basis deny these allegations.

2 261. F5 Defendants lack knowledge or information sufficient to form a belief as to the
3 truth of the allegations in Paragraph 261, and on that basis deny these allegations.

4 262. F5 Defendants deny the allegations in Paragraph 262.

5 263. F5 Defendants admit and aver that Konovalov, Sysoev, and Alexeev signed a term
6 sheet on April 4, 2011, for financing NGINX, Inc., a Delaware corporation. Except as expressly
7 admitted, F5 Defendants deny the allegations in Paragraph 263.

8 264. F5 Defendants deny the allegations in Paragraph 264.

9 265. F5 Defendants lack knowledge or information sufficient to form a belief as to the
10 truth of the allegations in Paragraph 265, and on that basis deny these allegations.

11 266. F5 Defendants lack knowledge or information sufficient to form a belief as to the
12 truth of the allegations in Paragraph 266, and on that basis deny these allegations.

13 267. F5 Defendants admit and aver that the referenced term sheet states, in part: “legal
14 opinion of Company counsel, satisfactory to the Investors, shall be delivered to the Investors
15 stating that the Founders’ activities with the Company do not and will not conflict with any
16 agreement, commitment or other encumbrance placed on them by their current or former
17 employers.” Except as expressly admitted, F5 Defendants deny the allegations in Paragraph 267.

18 268. F5 Defendants deny the allegations in Paragraph 268.

19 269. F5 Defendants deny the allegations in Paragraph 269.

20 270. F5 Defendants admit and aver that NGINX Software, Inc. was incorporated in
21 Delaware on May 4, 2011. F5 Defendants admit and aver that NGINX, Inc. BVI was
22 incorporated in the British Virgin Islands on July 6, 2011. F5 Defendants admit and aver that
23 NGINX DE was incorporated on August 8, 2011, and deny that it was incorporated by or at the
24 direction of any Defendant. Except as expressly admitted, F5 Defendants deny the allegations in
25 Paragraph 270.

26 271. F5 Defendants admit and aver that, as of May 4, 2011, NGINX Software, Inc.
27 established its initial headquarters at 600 Montgomery Street, 43rd Floor, San Francisco,
28 California 94111. Except as expressly admitted, F5 Defendants deny the allegations in Paragraph

1 271.

2 272. F5 Defendants admit and aver that an application to register the trademark
3 “NGINX” was filed in the U.S. Patent and Trademark Office (“USPTO”) on or about May 4,
4 2011, and assigned U.S. Application Number 85/312,802. Except as expressly admitted, F5
5 Defendants deny the allegations in Paragraph 272.

6 273. F5 Defendants admit and aver that an application to register a stylized NGINX
7 trademark was filed in the USPTO on or about May 5, 2011. Except as expressly admitted, F5
8 Defendants deny the allegations in Paragraph 273.

9 274. F5 Defendants deny the allegations in Paragraph 274.

10 275. F5 Defendants deny the allegations in Paragraph 275.

11 276. F5 Defendants admit and aver that Sysoev continued to work with Rambler in
12 some capacity until approximately December 2011 and that Smirnov worked with Rambler until
13 approximately November 2012. F5 Defendants deny the remaining allegations in Paragraph 276.

14 277. F5 Defendants deny the allegations in Paragraph 277.

15 278. F5 Defendants deny the allegations in Paragraph 278.

16 279. F5 Defendants deny the allegations in Paragraph 279.

17 280. F5 Defendants deny the allegations in Paragraph 280.

18 281. F5 Defendants deny the allegations in Paragraph 281.

19 282. F5 Defendants deny the allegations in Paragraph 282.

20 **Allegations re: “The Disloyal Employees Misrepresented Their Intentions to Rambler When**
21 **They Separated”**

22 283. F5 Defendants admit and aver that Konovalov separated from Rambler on or about
23 April 29, 2011, that Sysoev separated from Rambler entirely on or before December 1, 2011, and
24 that Smirnov separated from Rambler in November 2012. Except as expressly admitted, F5
25 Defendants deny the allegations in Paragraph 283.

26 284. F5 Defendants deny the allegations in Paragraph 284.

27 285. F5 Defendants deny the allegations in Paragraph 285.

28 286. F5 Defendants lack knowledge or information sufficient to form a belief as to the

1 truth of the allegations in Paragraph 286, and on that basis deny these allegations.

2 287. F5 Defendants deny the allegations in Paragraph 287.

3 288. F5 Defendants deny the allegations in Paragraph 288.

4 289. F5 Defendants deny the allegations in Paragraph 289.

5 290. F5 Defendants deny the allegations in Paragraph 290.

6 291. F5 Defendants lack knowledge or information sufficient to form a belief as to the
7 truth of the allegations in Paragraph 291, and on that basis deny these allegations.

8 292. F5 Defendants deny the allegations in Paragraph 292.

9 293. F5 Defendants deny the allegations in Paragraph 293.

10 294. F5 Defendants deny the allegations in Paragraph 294.

11 295. F5 Defendants deny the allegations in Paragraph 295.

12 296. F5 Defendants deny the allegations in Paragraph 296.

13 297. F5 Defendants deny the allegations in Paragraph 297.

14 298. F5 Defendants deny the allegations in Paragraph 298.

15 299. F5 Defendants deny the allegations in Paragraph 299.

16 **Allegations re: “The Team Concealed its Misconduct from Rambler Including by**
17 **Destroying Evidence”**

18 300. F5 Defendants deny the allegations in Paragraph 300.

19 301. F5 Defendants deny the allegations in Paragraph 301.

20 302. F5 Defendants lack knowledge or information sufficient to form a belief as to the
21 truth of the allegations in Paragraph 302, and on that basis deny these allegations.

22 303. F5 Defendants deny the allegations in Paragraph 303.

23 304. F5 Defendants deny the allegations in Paragraph 304.

24 305. F5 Defendants lack knowledge or information sufficient to form a belief as to the
25 truth of the allegations in Paragraph 305, and on that basis deny these allegations.

26 306. F5 Defendants deny the allegations in Paragraph 306.

27 307. F5 Defendants deny the allegations in Paragraph 307.

28 308. F5 Defendants deny the allegations in Paragraph 308.

1 309. F5 Defendants deny the allegations in Paragraph 309.

2 310. F5 Defendants deny the allegations in Paragraph 310.

3 311. F5 Defendants deny the allegations in Paragraph 311.

4 312. F5 Defendants deny the allegations in Paragraph 312.

5 313. F5 Defendants lack knowledge or information sufficient to form a belief as to the
6 truth of the allegations in Paragraph 313, and on that basis deny these allegations.

7 314. F5 Defendants deny the allegations in Paragraph 314.

8 315. F5 Defendants lack knowledge or information sufficient to form a belief as to the
9 truth of the allegations in Paragraph 315 concerning Popov's alleged activities at Rambler, and on
10 that basis deny these allegations. F5 Defendants deny the remaining allegations in Paragraph
11 315.

12 316. F5 Defendants deny the allegations in Paragraph 316 concerning an alleged
13 "conspiracy to steal and sell the NGINX Enterprise, including Pre-Exit NGINX Plus." F5
14 Defendants lack knowledge or information sufficient to form a belief as to the truth of the
15 remaining allegations in Paragraph 316, and deny these allegations on that basis.

16 317. F5 Defendants deny the allegations in Paragraph 317.

17 318. F5 Defendants lack knowledge or information sufficient to form a belief as to the
18 truth of the allegations in Paragraph 318 concerning Popov's alleged activities at Rambler, and on
19 that basis deny these allegations. F5 Defendants deny the remaining allegations in Paragraph
20 318.

21 319. F5 Defendants lack knowledge or information sufficient to form a belief as to the
22 truth of the allegations in Paragraph 319, and on that basis deny these allegations.

23 320. F5 Defendants lack knowledge or information sufficient to form a belief as to the
24 truth of the allegations in Paragraph 320, and on that basis deny these allegations.

25 321. F5 Defendants lack knowledge or information sufficient to form a belief as to the
26 truth of the allegations in Paragraph 321, and on that basis deny these allegations.

27 322. F5 Defendants lack knowledge or information sufficient to form a belief as to the
28 truth of the allegations in Paragraph 322, and on that basis deny these allegations.

1 323. F5 Defendants lack knowledge or information sufficient to form a belief as to the
2 truth of the allegations in Paragraph 323, and on that basis deny these allegations.

3 324. F5 Defendants lack knowledge or information sufficient to form a belief as to the
4 truth of the allegations in Paragraph 324, and on that basis deny these allegations.

5 325. F5 Defendants lack knowledge or information sufficient to form a belief as to the
6 truth of the allegations in Paragraph 325, and on that basis deny these allegations.

7 326. F5 Defendants lack knowledge or information sufficient to form a belief as to the
8 truth of the allegations in Paragraph 326, and on that basis deny these allegations.

9 327. F5 Defendants deny the allegations in Paragraph 327.

10 328. F5 Defendants deny the allegations in Paragraph 328.

11 329. F5 Defendants lack knowledge or information sufficient to form a belief as to the
12 truth of the allegations in Paragraph 329, and on that basis deny these allegations.

13 330. F5 Defendants lack knowledge or information sufficient to form a belief as to the
14 truth of the allegations in Paragraph 330, and on that basis deny these allegations.

15 331. F5 Defendants lack knowledge or information sufficient to form a belief as to the
16 truth of the allegations in Paragraph 331, and on that basis deny these allegations.

17 332. F5 Defendants deny the allegations in Paragraph 332.

18 **Allegations re: “Robertson Joins the Conspiracy and the NGINX Enterprise, including Pre-**
19 **Exit NGINX Plus, Gets Positioned for a Sale to a Large American Technology Company”**

20 333. F5 Defendants deny the allegations in Paragraph 333.

21 334. F5 Defendants deny the allegations in Paragraph 334.

22 335. F5 Defendants admit and aver that a financing round occurred in October 2013.
23 Except as expressly admitted, F5 Defendants deny the allegations in Paragraph 335.

24 336. F5 Defendants lack knowledge or information sufficient to form a belief as to the
25 truth of the allegations in Paragraph 336, and on that basis deny these allegations.

26 337. F5 Defendants lack knowledge or information sufficient to form a belief as to the
27 truth of the allegations in Paragraph 337, and on that basis deny these allegations.

28 338. F5 Defendants deny the allegations in Paragraph 338.

1 339. F5 Defendants deny the allegations in Paragraph 339.

2 340. F5 Defendants deny the allegations in Paragraph 340.

3 **Allegations re: “Sysoev Coyly Only Asserts Authorship, Not Ownership of Open Source**
4 **NGINX”**

5 341. F5 Defendants deny the allegations in Paragraph 341.

6 342. F5 Defendants admit and aver that Sysoev inserted copyright notice that contained
7 his name claiming copyright rights in a 2004 release of open source NGINX. Except as expressly
8 admitted, F5 Defendants deny the allegations in Paragraph 342.

9 343. F5 Defendants deny the allegations in Paragraph 343.

10 344. F5 Defendants deny the allegations in Paragraph 344.

11 **Allegations re: “The Team Sells the NGINX Enterprise, including Pre-Exit NGINX Plus, to**
12 **F5 Through a Merger”**

13 345. F5 Defendants admit and aver that on March 9, 2019, F5 entered into a Merger
14 Agreement (the “Merger Agreement”) with NGINX, Inc., a British Virgin Islands company; Neva
15 Merger Sub Limited, a British Virgin Islands company (“Merger Sub”); and Fortis Advisors LLC,
16 a Delaware limited liability company, as securityholder representative, pursuant to which Merger
17 Sub merged with and into NGINX, Inc. (BVI) (the “Merger”), with NGINX, Inc. (BVI) surviving
18 the Merger and becoming a wholly owned subsidiary of F5. Except as expressly admitted, F5
19 Defendants deny the allegations in Paragraph 345.

20 346. F5 Defendants admit and aver that they conducted due diligence concerning the
21 Merger Agreement entered into on March 9, 2019. Except as expressly admitted, F5 Defendants
22 deny the allegations in Paragraph 346.

23 347. F5 Defendants deny the allegations in Paragraph 347.

24 348. F5 Defendants deny the allegations in Paragraph 348.

25 349. F5 Defendants deny the allegations in Paragraph 349.

26 350. F5 Defendants deny the allegations in Paragraph 350.

27 351. F5 Defendants deny the allegations in Paragraph 351.

28 352. F5 Defendants deny the allegations in Paragraph 352.

1 353. F5 Defendants deny the allegations in Paragraph 353.

2 354. F5 Defendants deny the allegations in Paragraph 354.

3 355. F5 Defendants deny the allegations in Paragraph 355.

4 356. F5 Defendants deny the allegations in Paragraph 356.

5 357. F5 Defendants deny the allegations in Paragraph 357.

6 358. F5 Defendants admit and aver that the Merger Agreement rendering NGINX, Inc.
7 (BVI) a wholly owned subsidiary of F5 closed on May 8, 2019. Except as expressly admitted, F5
8 Defendants deny the allegations in Paragraph 358.

9 359. F5 Defendants admit and aver that as a result of the Merger, NGINX, Inc. (BVI)
10 became a wholly owned subsidiary of F5. Except as expressly admitted, F5 Defendants deny the
11 allegations in Paragraph 359.

12 360. To the extent this paragraph purports to recite the terms of the Merger Agreement,
13 F5 Defendants refer Lynwood to that document for a complete statement of its contents. F5
14 Defendants deny the allegations in Paragraph 360 to the extent that they are inconsistent with the
15 document. Except as expressly admitted, F5 Defendants deny the allegations in Paragraph 360.

16 361. To the extent this paragraph purports to recount the contents of a Form 10-K filing
17 with the U.S. Securities and Exchange Commission, F5 Defendants refer Lynwood to the
18 document for a complete statement of its contents. F5 Defendants deny the allegations in
19 Paragraph 361 to the extent that they are inconsistent with the document.

20 362. F5 Defendants deny the allegations in Paragraph 362.

21 363. To the extent this paragraph purports to recount the contents of a Form 8-K filing
22 with the U.S. Securities and Exchange Commission dated March 9, 2019, F5 Defendants refer
23 Lynwood to that document for a complete statement of its contents. F5 Defendants deny the
24 allegations in Paragraph 363 to the extent that they are inconsistent with the cited document.

25 364. To the extent this paragraph purports to recount the contents of a Form 8-K filing
26 with the U.S. Securities and Exchange Commission dated March 9, 2019, F5 Defendants refer
27 Lynwood to that document for a complete statement of its contents. F5 Defendants deny the
28 allegations in Paragraph 364 to the extent that they are inconsistent with the cited document.

1 365. To the extent this paragraph purports to selectively quote the contents of the
2 Merger Agreement, F5 Defendants refer Lynwood to that document for a complete statement of
3 its contents. F5 Defendants deny the allegations in Paragraph 365 to the extent that they are
4 inconsistent with the cited document.

5 366. F5 Defendants deny the allegations in Paragraph 366.

6 367. Admitted.

7 368. F5 Defendants lack knowledge or information sufficient to form a belief as to the
8 truth of the allegations in Paragraph 368, and on that basis deny these allegations.

9 369. F5 Defendants admit and aver that Robertson was a senior vice president of F5 and
10 has been identified publicly as a general manager of NGINX. Except as expressly admitted, F5
11 Defendants deny the allegations in Paragraph 369.

12 370. F5 Defendants admit that Dounin was a principal software engineer for F5 and that
13 he left that position in 2022. Except as expressly admitted, F5 Defendants deny the allegations in
14 Paragraph 370.

15 371. To the extent this paragraph purports to quote selectively from the Merger
16 Agreement, F5 Defendants refer Lynwood to that document for a complete statement of its
17 contents. F5 Defendants admit and aver that the Merger Agreement states, in part, “(ii) no
18 Employee or former employer of any Employee has any claim, right or interest to or in any
19 Company IP; (iii) no employee or independent contractor of the Company or any Subsidiary is in
20 breach of any Contract with any former employer or other Person concerning Intellectual
21 Property Rights or confidentiality” Except as expressly admitted, F5 Defendants deny the
22 allegations in Paragraph 371.

23 372. To the extent this paragraph purports to selectively quote the contents of the
24 Merger Agreement, F5 Defendants refer Lynwood to that document for a complete statement of
25 its contents. F5 Defendants deny the allegations in Paragraph 372 to the extent that they are
26 inconsistent with the cited document.

27 373. To the extent this paragraph purports to selectively quote the contents of the
28 Merger Agreement, F5 Defendants refer Lynwood to that document for a complete statement of

its contents. F5 Defendants admit and aver that Article IX of the Merger Agreement is entitled “POST-CLOSING INDEMNIFICATION.” F5 Defendants further admit and aver that Article IX Section 9.1 states, in part, “the IP Representations shall survive until 11:59 p.m. (Pacific time) on the fourth (4th) anniversary of the Closing Date.” Except as expressly admitted, F5 Defendants deny the allegations in Paragraph 373.

374. F5 Defendants deny the allegations in Paragraph 374.

Allegations re: “F5 Heavily Markets and Monetizes Open Source NGINX and NGINX Plus”

375. To the extent this paragraph purports to selectively quote the contents of a press release published by F5 on March 11, 2019, F5 Defendants refer Lynwood to that document for a complete statement of its contents, available at <https://www.f5.com/company/news/press-releases/f5-acquires-nginx-to-bridge-netops-devops>. F5 Defendants deny the allegations in Paragraph 375 to the extent that they are inconsistent with the cited document.

376. To the extent this paragraph purports to selectively quote the contents of a press release published by F5 on March 11, 2019, F5 Defendants refer Lynwood to that document for a complete statement of its contents, available at <https://www.f5.com/company/news/press-releases/f5-acquires-nginx-to-bridge-netops-devops>. F5 Defendants deny the allegations in Paragraph 376 to the extent that they are inconsistent with the cited document.

377. To the extent this paragraph purports to selectively quote the contents of a press release published by F5 on March 11, 2019, F5 Defendants refer Lynwood to that document for a complete statement of its contents, available at <https://www.f5.com/company/news/press-releases/f5-acquires-nginx-to-bridge-netops-devops>. F5 Defendants deny the allegations in Paragraph 377 to the extent that they are inconsistent with the cited document.

378. F5 Defendants deny the allegations in Paragraph 378.

379. F5 Defendants deny the allegations in Paragraph 379.

380. To the extent this paragraph purports to selectively quote the contents of Form 10-K filed by F5 with the Securities and Exchange Commission for the fiscal year ended September 30, 2019, F5 Defendants refer Lynwood to that document for a complete statement of

1 its contents. F5 Defendants admit and aver that the Form 10-K states, in part, “NGINX, for
2 example, extends our reach to cloud-native and microservices environments and extends our role
3 into application servers, web servers, and API gateways.” Except as expressly admitted, F5
4 Defendants deny the allegations in Paragraph 380.

5 381. To the extent this paragraph purports to selectively quote the contents of
6 Form 10-K filed by F5 with the Securities and Exchange Commission for the fiscal year ended
7 September 30, 2019, F5 Defendants refer Lynwood to that document for a complete statement of
8 its contents. F5 Defendants deny the allegations in Paragraph 381 to the extent that they are
9 inconsistent with the cited document.

10 382. F5 Defendants deny the allegations in Paragraph 382.

11 383. F5 Defendants deny the allegations in Paragraph 383.

12 384. F5 Defendants admit and aver that NGINX Plus may be used as a software load
13 balancer, reverse proxy, web server, and content cache with enterprise features and support. The
14 complaint fails to identify the source of the purported quotations in this paragraph. Therefore, F5
15 Defendants lack knowledge or information sufficient to form a belief as to the truth of the
16 remaining allegations in Paragraph 384, and on that basis deny these allegations.

17 385. F5 Defendants deny the allegations in Paragraph 385.

18 386. F5 Defendants admit and aver that NGINX Unit may be used as a dynamic
19 application server, or app server, built from scratch. Except as expressly admitted, F5 Defendants
20 deny the allegations in Paragraph 386.

21 387. F5 Defendants deny the allegations in Paragraph 387.

22 388. F5 Defendants deny the allegations in Paragraph 388.

23 389. To the extent this paragraph purports to selectively quote the contents of a blog
24 post published by F5 on December 19, 2019, F5 Defendants refer Lynwood to that document for
25 a complete statement of its contents, available at [https://www.f5.com/company/blog/announcing-
26 shape-security-acquisition](https://www.f5.com/company/blog/announcing-shape-security-acquisition). F5 Defendants admit and aver that the December 19, 2019 blog post
27 states, in part, “When you combine F5 and NGINX’s expertise powering over half of the world’s
28 applications across all types of environments, with Shape’s insight from mitigating 1 billion

1 application attacks per day, you have a company that knows how to secure more applications –
2 and more value – than any company in the industry.” Except as expressly admitted, F5
3 Defendants deny the allegations in Paragraph 389.

4 390. The complaint fails to identify the source of the quotes in this paragraph. F5
5 Defendants admit and aver that NGINX Plus may function as a software load balancer, reverse
6 proxy, web server, and content cache with enterprise features and support. Except as expressly
7 admitted, F5 Defendants deny the allegations in Paragraph 390.

8 391. To the extent this paragraph purports to selectively quote the contents of an F5
9 document entitled *Load Balancing Your Applications*, F5 Defendants refer Lynwood to that
10 document for a complete statement of its contents, available at
11 [https://www.f5.com/content/dam/f5/corp/global/pdf/solution-guides/load-balancing-your-](https://www.f5.com/content/dam/f5/corp/global/pdf/solution-guides/load-balancing-your-applications-overview.pdf)
12 [applications-overview.pdf](https://www.f5.com/content/dam/f5/corp/global/pdf/solution-guides/load-balancing-your-applications-overview.pdf). F5 Defendants admit and aver that the document states, in part,
13 “NGINX Plus has exclusive enterprise grade features beyond what’s available in the open source
14 offering, including session persistence, configuration via API, and active health checks.” Except
15 as expressly admitted, F5 Defendants deny the allegations in Paragraph 391.

16 **Allegations re: “A Whistleblower Comes Forward to Rambler Revealing the Conspiracy”**

17 392. F5 Defendants lack knowledge or information sufficient to form a belief as to the
18 truth of the allegations in Paragraph 392, and on that basis deny these allegations.

19 393. F5 Defendants deny the allegations in Paragraph 393.

20 394. F5 Defendants lack knowledge or information sufficient to form a belief as to
21 what, if anything, Korotkov purportedly told Rambler, and on that basis deny these allegations.
22 F5 Defendants deny the remaining allegations in Paragraph 394.

23 395. F5 Defendants lack knowledge or information sufficient to form a belief as to
24 what, if anything, Korotkov purportedly told Rambler, and on that basis deny these allegations.
25 F5 Defendants deny the remaining allegations in Paragraph 395.

26 396. F5 Defendants lack knowledge or information sufficient to form a belief as to
27 what, if anything, Korotkov purportedly told Rambler, and on that basis deny these allegations.
28 F5 Defendants deny the remaining allegations in Paragraph 396.

1 397. F5 Defendants lack knowledge or information sufficient to form a belief as to
2 what, if anything, Korotkov purportedly told Rambler, and on that basis deny these allegations.
3 F5 Defendants deny the remaining allegations in Paragraph 397.

4 398. F5 Defendants lack knowledge or information sufficient to form a belief as to
5 what, if anything, Korotkov purportedly told Rambler, and on that basis deny these allegations.
6 F5 Defendants deny the remaining allegations in Paragraph 398.

7 399. F5 Defendants lack knowledge or information sufficient to form a belief as to
8 what, if anything, Korotkov purportedly told Rambler, and on that basis deny these allegations.
9 F5 Defendants deny the remaining allegations in Paragraph 399.

10 400. F5 Defendants lack knowledge or information sufficient to form a belief as to
11 what, if anything, Korotkov purportedly told Rambler, and on that basis deny these allegations.
12 F5 Defendants deny the remaining allegations in Paragraph 400.

13 401. F5 Defendants lack knowledge or information sufficient to form a belief as to
14 what, if anything, Korotkov purportedly told Rambler or Lynwood, and on that basis deny these
15 allegations. F5 Defendants deny the remaining allegations in Paragraph 401.

16 402. F5 Defendants deny the allegations in Paragraph 402.

17 403. F5 Defendants deny the allegations in Paragraph 403.

18 404. F5 Defendants lack knowledge or information sufficient to form a belief as to the
19 truth of the allegations in Paragraph 404, and on that basis deny these allegations.

20 405. F5 Defendants deny the allegations in Paragraph 405.

21 **Allegations re: “Lynwood Acquires Rambler’s Rights to Open Source NGINX, Pre-Exit**
22 **NGINX Plus, The NGINX Enterprise, Related Intellectual Property Rights, and The Claims**
23 **Asserted Herein”**

24 406. F5 Defendants lack knowledge or information sufficient to form a belief as to the
25 truth of the allegations in Paragraph 406, and on that basis deny these allegations.

26 407. F5 Defendants lack knowledge or information sufficient to form a belief as to the
27 truth of the allegations in Paragraph 407, and on that basis deny these allegations.

28 408. F5 Defendants lack knowledge or information sufficient to form a belief as to the

1 truth of the allegations in Paragraph 408, and on that basis deny these allegations.

2 409. F5 Defendants admit and aver that Sysoev stated publicly that he was an author or
3 creator of open source NGINX. F5 Defendants lack knowledge or information sufficient to form
4 a belief as to whether A&NN Group asked Rambler to investigate anything, and deny these
5 allegations on that basis. F5 Defendants deny the remaining allegations in Paragraph 409.

6 410. F5 Defendants lack knowledge or information sufficient to form a belief as to the
7 truth of the allegations in Paragraph 410, and on that basis deny these allegations.

8 411. F5 Defendants lack knowledge or information sufficient to form a belief as to what
9 Rambler or Lynwood claims it did not know, and deny these allegations on that basis.
10 F5 Defendants deny the remaining allegations in Paragraph 411.

11 412. F5 Defendants deny the allegations in Paragraph 412.

12 413. F5 Defendants lack knowledge or information sufficient to form a belief as to what
13 Lynwood believed it understood about Konovalov and Sysoev, and deny these allegations on that
14 basis. F5 Defendants deny the remaining allegations in Paragraph 413.

15 414. F5 Defendants deny the allegations in Paragraph 414.

16 415. F5 Defendants deny the allegations in Paragraph 415.

17 416. F5 Defendants deny the allegations in Paragraph 416.

18 417. F5 Defendants deny the allegations in Paragraph 417.

19 418. F5 Defendants lack knowledge or information sufficient to form a belief as to what
20 information, if any, Korotkov supposedly provided Rambler or Lynwood, and deny these
21 allegations on that basis. F5 Defendants deny the remaining allegations in Paragraph 418.

22 419. F5 Defendants deny the allegations in Paragraph 419.

23 420. F5 Defendants deny the allegations in Paragraph 420.

24 421. F5 Defendants lack knowledge or information sufficient to form a belief as to what
25 materials, if any, Rambler supposedly searched for in 2019, and deny these allegations on that
26 basis. F5 Defendants deny the remaining allegations in Paragraph 421.

27 422. F5 Defendants lack knowledge or information sufficient to form a belief as to what
28 materials, if any, Rambler and Lynwood supposedly searched for in 2019, and deny these

1 allegations on that basis. F5 Defendants deny the remaining allegations in Paragraph 422.

2 423. F5 Defendants lack knowledge or information sufficient to form a belief as to what
3 materials, if any, Rambler and Lynwood supposedly searched for in 2019, and deny these
4 allegations on that basis. F5 Defendants deny the remaining allegations in Paragraph 423.

5 424. F5 Defendants lack knowledge or information sufficient to form a belief as to the
6 focus of any alleged investigation by Rambler or Lynwood in 2019, and deny these allegations on
7 that basis. F5 Defendants deny the remaining allegations in Paragraph 424.

8 425. F5 Defendants lack knowledge or information sufficient to form a belief as to what
9 was the “focal point” of Rambler or Lynwood’s alleged investigation in 2019, and deny these
10 allegations on that basis. F5 Defendants deny the remaining allegations in Paragraph 425.

11 426. F5 Defendants lack knowledge or information sufficient to form a belief as to what
12 searches, if any, were performed by Rambler or Lynwood in 2019, and deny these allegations on
13 that basis. F5 Defendants deny the remaining allegations in Paragraph 426.

14 427. F5 Defendants deny the allegations in Paragraph 427.

15 428. F5 Defendants deny the allegations in Paragraph 428.

16 429. F5 Defendants lack knowledge or information sufficient to form a belief as to what
17 “question[ing]” of Popov was performed by Rambler or Lynwood, if any, and deny these
18 allegations on that basis. F5 Defendants deny the remaining allegations in Paragraph 429.

19 430. F5 Defendants deny the allegations in Paragraph 430.

20 431. F5 Defendants lack knowledge or information sufficient to form a belief as to any
21 “assignment agreement” involving Rambler and Lynwood, and deny these allegations on that
22 basis. F5 Defendants deny the remaining allegations in Paragraph 431.

23 432. F5 Defendants lack knowledge or information sufficient to form a belief as to the
24 truth of the allegations in Paragraph 432, and on that basis deny these allegations.

25 433. F5 Defendants deny the allegations in Paragraph 433.

26 **Allegations re: “Under Russian Law, Rambler Owned Open Source NGINX, Pre-Exit**
27 **NGINX Plus and Related Intellectual Property and Business Opportunities”**

28 434. F5 Defendants deny the allegations in Paragraph 434.

1 435. To the extent the allegations in this paragraph state legal conclusions, they do not
2 require a response. To the extent a response is required, F5 Defendants deny the allegations in
3 Paragraph 435.

4 436. F5 Defendants deny the allegations in Paragraph 436.

5 437. F5 Defendants deny the allegations in Paragraph 437.

6 438. To the extent the allegations in this paragraph state legal conclusions, they do not
7 require a response. To the extent a response is required, F5 Defendants deny the allegations in
8 Paragraph 438.

9 439. To the extent the allegations in this paragraph state legal conclusions, they do not
10 require a response. To the extent a response is required, F5 Defendants deny the allegations in
11 Paragraph 439.

12 440. To the extent the allegations in this paragraph state legal conclusions, they do not
13 require a response. To the extent a response is required, F5 Defendants deny the allegations in
14 Paragraph 440.

15 441. To the extent the allegations in this paragraph state legal conclusions, they do not
16 require a response. To the extent a response is required, F5 Defendants deny the allegations in
17 Paragraph 441.

18 442. To the extent the allegations in this paragraph state legal conclusions, they do not
19 require a response. To the extent a response is required, F5 Defendants deny the allegations in
20 Paragraph 442.

21 443. To the extent the allegations in this paragraph state legal conclusions, they do not
22 require a response. To the extent a response is required, F5 Defendants deny the allegations in
23 Paragraph 443.

24 444. To the extent the allegations in this paragraph state legal conclusions, they do not
25 require a response. To the extent a response is required, F5 Defendants deny the allegations in
26 Paragraph 444.

27 445. To the extent the allegations in this paragraph state legal conclusions, they do not
28 require a response. To the extent a response is required, F5 Defendants deny the allegations in

1 Paragraph 445.

2 446. To the extent the allegations in this paragraph state legal conclusions, they do not
3 require a response. To the extent a response is required, F5 Defendants deny the allegations in
4 Paragraph 446.

5 447. To the extent the allegations in this paragraph state legal conclusions, they do not
6 require a response. To the extent a response is required, F5 Defendants deny the allegations in
7 Paragraph 447.

8 448. To the extent the allegations in this paragraph state legal conclusions, they do not
9 require a response. To the extent a response is required, F5 Defendants deny the allegations in
10 Paragraph 448.

11 449. F5 Defendants admit and aver that Russia and the United States are signatories to
12 the Berne Convention for the Protection of Literary and Artistic Works. Except as expressly
13 admitted, F5 Defendants deny the allegations in Paragraph 49.

14 450. F5 Defendants refer Lynwood to the Berne Convention for a full statement of its
15 contents. Except as expressly admitted, F5 Defendants deny the allegations in Paragraph 450.

16 451. To the extent the allegations in this paragraph state legal conclusions, they do not
17 require a response. To the extent a response is required, F5 Defendants deny the allegations in
18 Paragraph 451.

19 452. F5 Defendants deny the allegations in Paragraph 452.

20 453. To the extent the allegations in this paragraph state legal conclusions, they do not
21 require a response. To the extent a response is required, F5 Defendants deny the allegations in
22 Paragraph 453.

23 454. F5 Defendants deny the allegations in Paragraph 454.

24 455. F5 Defendants deny the allegations in Paragraph 455.

25 456. F5 Defendants deny the allegations in Paragraph 456.

26 457. F5 Defendants lack knowledge or information sufficient to form a belief as to the
27 truth of the allegations in Paragraph 457, and on that basis deny these allegations.

28 458. To the extent the allegations in this paragraph state legal conclusions, they do not

1 require a response. To the extent a response is required, F5 Defendants deny the allegations in
2 Paragraph 458.

3 459. To the extent the allegations in this paragraph state legal conclusions, they do not
4 require a response. To the extent a response is required, F5 Defendants deny the allegations in
5 Paragraph 459.

6 460. To the extent the allegations in this paragraph state legal conclusions, they do not
7 require a response. To the extent a response is required, F5 Defendants deny the allegations in
8 Paragraph 460.

9 461. To the extent the allegations in this paragraph state legal conclusions, they do not
10 require a response. To the extent a response is required, F5 Defendants deny the allegations in
11 Paragraph 461.

12 462. F5 Defendants lack knowledge or information sufficient to form a belief as to the
13 truth of the allegations in Paragraph 462, and on that basis deny these allegations.

14 463. F5 Defendants lack knowledge or information sufficient to form a belief as to the
15 truth of the allegations in Paragraph 463, and on that basis deny these allegations.

16 464. F5 Defendants lack knowledge or information sufficient to form a belief as to the
17 truth of the allegations in Paragraph 464, and on that basis deny these allegations.

18 465. F5 Defendants lack knowledge or information sufficient to form a belief as to the
19 truth of the allegations in Paragraph 465, and on that basis deny these allegations.

20 466. F5 Defendants lack knowledge or information sufficient to form a belief as to the
21 truth of the allegations in Paragraph 466, and on that basis deny these allegations.

22 467. F5 Defendants deny the allegations in Paragraph 467.

23 468. F5 Defendants lack knowledge or information sufficient to form a belief as to the
24 truth of the allegations in Paragraph 468, and on that basis deny these allegations.

25 469. F5 Defendants deny the allegations in Paragraph 469.

26 470. F5 Defendants lack knowledge or information sufficient to form a belief as to the
27 truth of the allegations in Paragraph 470, and on that basis deny these allegations.

28 471. F5 Defendants lack knowledge or information sufficient to form a belief as to the

1 truth of the allegations in Paragraph 471, and on that basis deny these allegations.

2 472. F5 Defendants admit and aver that Sysoev publicly released open source NGINX
3 software in 2004. Except as expressly admitted, F5 Defendants deny the allegations in Paragraph
4 472.

5 473. F5 Defendants deny the allegations in Paragraph 473.

6 474. F5 Defendants deny the allegations in Paragraph 474.

7 475. F5 Defendants deny the allegations in Paragraph 475.

8 476. F5 Defendants deny the allegations in Paragraph 476.

9 477. F5 Defendants deny the allegations in Paragraph 477.

10 **FIRST CLAIM FOR RELIEF**

11 478. F5 Defendants incorporate by reference their responses to Paragraphs 1 to 477.

12 479. F5 Defendants refer Lynwood to the Berne Convention for a full statement of its
13 contents. Except as expressly admitted, F5 Defendants deny the allegations in Paragraph 479.

14 480. F5 Defendants refer Lynwood to the Berne Convention for a full statement of its
15 contents. Except as expressly admitted, F5 Defendants deny the allegations in Paragraph 480.

16 481. To the extent the allegations in this paragraph state legal conclusions, they do not
17 require a response. To the extent a response is required, F5 Defendants deny the allegations in
18 Paragraph 481.

19 482. To the extent the allegations in this paragraph state legal conclusions, they do not
20 require a response. To the extent a response is required, F5 Defendants deny the allegations in
21 Paragraph 482.

22 483. To the extent the allegations in this paragraph state legal conclusions, they do not
23 require a response. To the extent a response is required, F5 Defendants deny the allegations in
24 Paragraph 483.

25 484. To the extent the allegations in this paragraph state legal conclusions, they do not
26 require a response. To the extent a response is required, F5 Defendants deny the allegations in
27 Paragraph 484.

28 485. To the extent the allegations in this paragraph state legal conclusions, they do not

1 require a response. To the extent a response is required, F5 Defendants deny the allegations in
2 Paragraph 485.

3 486. F5 Defendants deny the allegations in Paragraph 486.

4 487. F5 Defendants deny the allegations in Paragraph 487.

5 488. F5 Defendants deny the allegations in Paragraph 488.

6 489. F5 Defendants deny the allegations in Paragraph 489.

7 490. F5 Defendants deny the allegations in Paragraph 490.

8 491. F5 Defendants deny the allegations in Paragraph 491.

9 492. F5 Defendants deny the allegations in Paragraph 492.

10 493. F5 Defendants deny the allegations in Paragraph 493.

11 494. F5 Defendants admit and aver that F5 makes available various NGINX Plus
12 releases in executable form and on a subscription basis—software that has nothing to do with and
13 is not owned by Lynwood. F5 Defendants deny the remaining allegations in Paragraph 494.

14 495. F5 Defendants deny the allegations in Paragraph 495.

15 496. To the extent this paragraph purports to quote selectively from a blog post
16 published September 6, 2017, entitled “Introducing the NGINX Application Platform,” F5
17 Defendants refer Lynwood to that website, available at
18 [https://web.archive.org/web/20170912124902/https://www.nginx.com/blog/introducing-nginx-](https://web.archive.org/web/20170912124902/https://www.nginx.com/blog/introducing-nginx-application-platform/)
19 [application-platform/](https://web.archive.org/web/20170912124902/https://www.nginx.com/blog/introducing-nginx-application-platform/) for a complete statement of its contents. F5 Defendants deny the remaining
20 allegations in Paragraph 496.

21 497. F5 Defendants deny the allegations in Paragraph 497.

22 498. F5 Defendants deny the allegations in Paragraph 498.

23 499. F5 Defendants deny the allegations in Paragraph 499.

24 500. F5 Defendants deny the allegations in Paragraph 500.

25 501. F5 Defendants deny the allegations in Paragraph 501.

26 502. F5 Defendants deny the allegations in Paragraph 502.

27 503. F5 Defendants deny the allegations in Paragraph 503.

28 504. This paragraph does not contain any factual allegations, and, therefore, no answer

1 is required. To the extent the allegations in this paragraph state legal conclusions, they do not
2 require a response. To the extent a response is required, F5 Defendants deny the allegations in
3 Paragraph 504.

4 505. This paragraph does not contain any factual allegations, and, therefore, no answer
5 is required. To the extent the allegations in this paragraph state legal conclusions, they do not
6 require a response. To the extent a response is required, F5 Defendants deny the allegations in
7 Paragraph 505.

8 506. F5 Defendants deny the allegations in Paragraph 506.

9 507. F5 Defendants deny the allegations in Paragraph 507.

10 508. F5 Defendants deny the allegations in Paragraph 508.

11 509. F5 Defendants deny the allegations in Paragraph 509.

12 510. F5 Defendants deny the allegations in Paragraph 510.

13 511. F5 Defendants deny the allegations in Paragraph 511.

14 512. F5 Defendants deny the allegations in Paragraph 512.

15 513. F5 Defendants deny the allegations in Paragraph 513.

16 514. F5 Defendants deny the allegations in Paragraph 514.

17 515. F5 Defendants deny the allegations in Paragraph 515 and deny that Lynwood is
18 entitled to any relief whatsoever.

19 516. F5 Defendants deny the allegations in Paragraph 516 and deny that Lynwood is
20 entitled to any relief whatsoever.

21 517. F5 Defendants deny the allegations in Paragraph 517 and deny that Lynwood is
22 entitled to any relief whatsoever.

23 518. F5 Defendants deny the allegations in Paragraph 518 and deny that Lynwood is
24 entitled to any relief whatsoever.

25 519. F5 Defendants deny the allegations in Paragraph 519 and deny that Lynwood is
26 entitled to any relief whatsoever.

1 **“PRAYER FOR RELIEF”**

2 F5 Defendants deny that Lynwood is entitled to any relief whatsoever, including
3 Plaintiff’s requests in paragraphs (A) through (J) of its Prayer for Relief.

4 **FURTHER AND ADDITIONAL DEFENSES**

5 Without altering the applicable burdens of proof, F5 Defendants assert the following
6 separate and further defenses to the Second Amended Complaint:

7 **First Additional Defense**

8 ***(Statute of Limitations)***

9 Lynwood’s claim and the remedies sought therein are barred by the statute of limitations.

10 **Second Additional Defense**

11 ***(Laches)***

12 Lynwood’s claim and the remedies sought therein are barred by the doctrine of laches.

13 **Third Additional Defense**

14 ***(No Ownership of a Valid Copyright)***

15 Lynwood does not own a copyright in the works on which it purports to sue.

16 **Fourth Additional Defense**

17 ***(Failure to Sufficiently Identify a Copyrighted Work)***

18 Lynwood has failed to sufficiently identify the alleged copyrighted work(s) on which it
19 has sued, or to distinguish any such works from open source software that is free for the public to
20 use, or from other works that were not created or owned by Rambler or Lynwood.

21 **Fifth Additional Defense**

22 ***(No Copyright in Code Not Reduced to Writing)***

23 To the extent Lynwood’s copyright claim relies on software or code that was conceived
24 but not “fully developed,” *i.e.*, reduced to writing, during an individual defendant’s employment
25 with Rambler, the claim is barred by the Copyright Act’s requirement that a work must be “fixed
26 in a tangible medium of expression” and by the Ninth Circuit’s decision in *Lynwood Investments*
27 *CY Ltd. v. Konovalov*, No. 22-16399, 2024 WL 4688895 (9th Cir. Nov. 6, 2024).
28

Sixth Additional Defense***(Public Domain/Open Source License)***

Lynwood has failed to sufficiently allege and cannot show that any NGINX code on which it has sued is distinct from open source NGINX, which is free for the world to use or is used under license without infringing any copyright allegedly held by Lynwood.

Seventh Additional Defense***(Idea/Expression Dichotomy and Merger)***

To the extent Plaintiff may claim copyright in computer code that was written based on or in connection with open source NGINX but is not part of NGINX Plus, Plaintiff's claim is barred by the Ninth Circuit's decision in this litigation and by the idea/expression dichotomy and the doctrine of merger.

Eighth Additional Defense***(Scenes à Faire)***

To the extent Plaintiff may claim copyright in computer code that was written based on or in connection with open source NGINX but is not part of NGINX Plus, Plaintiff's claim is barred by the Ninth Circuit's decision in this litigation and by the doctrine of *scenes à faire*.

Ninth Additional Defense***(De Minimis)***

Any alleged copying of protectible expression is *de minimis*.

Tenth Additional Defense***(Waiver)***

The claim alleged in the Second Amended Complaint is barred by the doctrine of waiver.

Eleventh Additional Defense***(Equitable Estoppel)***

The claim alleged in the Second Amended Complaint is barred by equitable estoppel.

Twelfth Additional Defense***(Failure to State a Claim)***

The complaint fails to state a claim on which relief can be granted.

1 **Thirteenth Additional Defense**

2 ***(No Statutory Damages; 17 U.S.C. § 412)***

3 Statutory damages are not available to Lynwood because it does not hold a valid U.S.
4 copyright registration on the works on which it has sued.

5 **Fourteenth Additional Defense**

6 ***(No Attorney's Fees; 17 U.S.C. § 412)***

7 Lynwood is not entitled to pursue or obtain attorney's fees under the Copyright Act
8 because it lacks a valid U.S. copyright registration for the works on which it has sued.

9 **Fifteenth Additional Defense**

10 ***(No Entitlement to Injunctive Relief)***

11 Lynwood is not entitled to injunctive relief because any alleged injury to Lynwood is not
12 irreparable, the balance of hardships does not favor Lynwood, and an injunction would not serve
13 the public interest.

14 **Sixteenth Additional Defense**

15 ***(No Punitive or Enhanced Damages)***

16 Punitive or enhanced damages are not available under the Copyright Act.

17 **Seventeenth Additional Defense**

18 ***(License)***

19 Lynwood's claims fail in whole or in part because the complained-of use was validly
20 licensed by express or implied license.

21 **Eighteenth Additional Defense**

22 ***(Clear and Express Repudiation)***

23 If *arguendo* Lynwood had identified a copyrighted work on which it is suing, Lynwood's
24 claim of copyright infringement fails due to an express repudiation of Rambler's ownership or
25 authorship rights by Igor Sysoev or entities with which he was affiliated.

26 **Nineteenth Additional Defense**

27 ***(Failure to Join Necessary Party)***

28 Lynwood is barred from pursuing its alleged claim or seeking the relief sought in the

complaint based on its failure to join a necessary party, Rambler Internet Holdings LLC.

Twentieth Additional Defense

(Lack of Standing)

On information and belief, Lynwood lacks standing to assert the claim for relief alleged in the complaint.

Other Defenses

F5 Defendants reserve the right to assert any additional or affirmative defenses under Rule 8(c) of the Federal Rules of Civil Procedure, and any other defense, at law or equity, that may now exist or that may become available through information developed in discovery, at trial, or otherwise.

F5 DEFENDANTS' PRAYER FOR RELIEF

WHEREFORE, F5 Defendants pray for judgment against Lynwood as follows:

A. That Lynwood takes nothing and that judgment be entered in favor of F5 Defendants and against Plaintiff;

B. Awarding F5 Defendants their attorneys' fees and costs incurred in responding to Lynwood's meritless allegations of copyright infringement and now-dismissed claims, including all fees and costs incurred before remand by the Ninth Circuit on the sole partial copyright claim currently at issue in the litigation;

C. Declaring that Lynwood owns no copyright or other rights in open source NGINX or NGINX Plus; and

D. Awarding F5 Defendants such further relief as the Court deems fair and proper.

Dated: May 19, 2025

MORRISON & FOERSTER LLP

By: /s/ Benjamin J. Fox
Benjamin J. Fox

Attorneys for
F5 NETWORKS, INC., NGINX, INC.
(BVI), and NGINX SOFTWARE, INC.

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